

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAMES GEMELAS, On Behalf of Himself and)	No. 1:08-cv-00236
All Others Similarly Situated,	)
	)
Plaintiff,	)
	)
vs.	)
	)
THE DANNON COMPANY, INC.,	)
	)
Defendant.	)
_____	)

STIPULATION OF AMENDMENT TO SETTLEMENT AND [PROPOSED] ORDER

Pursuant to Section XI.G of the Amended Stipulation of Settlement, approved by the Court on January 27, 2010, plaintiff James Gemelas, on behalf of himself and each of the Settlement Class Members and their Class Counsel authorized to settle this Litigation on their behalf, and Defendant The Dannon Company, Inc. ("Defendant" or "Dannon") and its counsel of record in this Litigation, hereby amend Section IV.B(3)(a) of the Amended Stipulation of Settlement filed with the Court on January 20, 2010. Section IV.B(3)(a) shall be amended to read as follows:

(a) No term or provision of this Agreement shall be in effect or otherwise enforceable against Defendant if such term or provision is in conflict or inconsistent with a Consent Order, judicial decree, Closing Letter or other memorialized understanding between Defendant and the Federal Trade Commission (FTC), any state Attorneys General, or other state consumer protection agency (collectively "Government Entity"), relating to the advertising or promotion of the Products, it is being understood by the Parties that in such conflicting circumstances the equitable relief obtained by any such Government Entity shall govern and Defendant shall be required to comply therewith. In the event the parties dispute whether there is such a conflict or inconsistency, such dispute shall be resolved by the Court upon application by either party.

Respectfully submitted,

DATED: <sup>May</sup>~~April~~ 20, 2010

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DATED: <sup>May</sup>~~April~~ 20, 2010

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In accordance with the Court's Order of January 27, 2010, the Court hereby grants preliminary approval of the foregoing Stipulation of Amendment.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE DAN A. POLSTER  
UNITED STATES DISTRICT JUDGE